

## **REMARKS**

The following remarks are submitted to address all issues in this case, and to put this case in condition for allowance. Applicant amends the claims in this case simply to better define the subject matter of the present invention. Application claims 67, 72-77, 79-81, 84, 86, and 90 are pending in the application. Application claim 67 is the only independent claim.

The Examiner is thanked for the courtesy of the Interview on February 2, 2010 in which the various art references, rejections, and the use of the terms “handle” and “handle position” were discussed. While no agreement was reached in the Interview, applicant believes the below amendment should resolve the handle/handle position issue and believes the claims, as amended, should overcome the cited art.

Applicant has studied the Office Action mailed August 21, 2008 and has the following remarks.

### **Double Patenting**

The Examiner rejected claims 81 and 89 as substantial duplicates and claims 111 and 119 as substantial duplicates. Without admission as to the correctness of the rejection, claims 89, 111, and 119 have been deleted, mooted the Examiner’s rejection.

### **35 U.S.C §112**

The Examiner objected to the claims for failing to comply with the written description requirement of the second paragraph of section 112. Specifically, the Examiner objected to various elements of the claims related to the plane of the axes. Without admission as to the



correctness of the rejection, the language of the claims has been altered to eliminate discussion of the plane of the axes, mooted the Examiner's objection.

The Examiner further rejected claims 68 and 100 for lacking antecedent basis for the plane of motion of the handles. Without admission as to the correctness of the rejection, claims 68 and 100 have been cancelled mooted the Examiner's rejection.

### **Drawings**

The Examiner objected to the drawings for failing to show various elements of claims 78, 82, 87, 92, 108, 112, and 177. Without admission as to the correctness of the Examiner's objection, the listed claims have been cancelled by the present amendment mooted the Examiner's objections.

### **35 U.S.C. § 102 / 35 U.S.C. § 103**

The Examiner rejected the prior claims under 35 U.S.C. §102(b) as being anticipated by Webber (US Pat. 5,683,334) or as obvious in light of Webber possibly in further view of Jones (US Pat. 5,554,089). Applicant respectfully traverses these rejections, as no combination of the references shows an exercise machine with handles positioned on a first and second arm for a push exercise, which handles traverse a portion of a fixed path where the paths of the handles on the two arms intersect, and no combination of the references shows an exercise machine with handles positioned on a first and second arm for a pull exercise, which handles traverse a portion of a fixed path where the paths of the handles on the two arms intersect. Intersection of the circles (paths) on which the handles traverse an arc (portion) is clearly shown in FIGS 7A -7E



and supported by the present specification as originally filed. Specifically, on at least page 17, lines 20-25.

The Examiner contends that the Webber reference provides for an exercise machine whereby two different handles on each exercise arm can be used to provide for a push and pull motion of the user about fixed axes (70).

Applicants contend that Webber, however fails to show that the push and pull sets of handles traverse portions of intersecting fixed paths. Instead, as is immediately apparent from the FIGS of Webber, the paths used by the handles in Webber are designed to not intersect, and are clearly completely separate. Webber also makes no mention of the paths of the handles intersecting. Further, while the embodiment of FIG. 8 could arguably allow the handles to traverse intersecting paths due to the various degrees of motion provided, the paths traversed in the embodiment of FIG. 8 are clearly not fixed as the secondary axes (54C) allow for free motion. Therefore, this embodiment still does not provide the elements of the present claims.

Jones fails to make up for this missing element as the handles in Jones are also clearly not designed to follow fixed intersecting paths. In the first instance, Jones only shows a single handle for each arm, which is immobile relative to that arm. It is not possible to have handles at two different locations with the device of Jones as contemplated by the present claims. Therefore, Jones cannot have handles in both a push position and a pull position on each arm much less have them utilize intersecting paths. Further, Jones makes no mention of the paths of its single set of handles intersecting and such intersection is not shown in the FIGS.

Still further, In the instant claims a user can be placed into many different positions relative to the two arms of the exercise machine, while staying on the same seat by turning forward or backward or otherwise adjusting their body position on the seat. The user can grasp a



set of handles at a particular location and perform a particular exercise utilizing the arms in that position. Then, the user can change position to face the opposite direction to perform another exercise on a related arc. Thus, in the instant claims, the user can access a different set of handles (or move a handle between different points) and interact with the arms in a variety of places simply by changing his or her body positioning on the same seat. The user never needs to change to a different seat on the machine in order to access a different exercise. This is not possible with the device of Jones.

For the reasons discussed above with regards to the independent claims, the dependent claims are also believed allowable.

### **Conclusion**

In light of the above remarks, Applicant believes there are no further issues regarding the patentability of the pending claims and respectfully requests the Examiner withdraw the rejections and allow all pending claims so that this case can pass on to issue.

Applicant encloses herein a petition for a two month extension of time, and the associated fees. It is believed that no additional fees are due with this filing. However, the Commissioner is hereby authorized to charge or credit to our Deposit Account, No. 50-0975, any fees due in connection with the filing of this Response.

If there are any questions regarding this Response, the Examiner is invited to contact the undersigned at (314) 444-1316.



Respectfully submitted,  
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